

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOSE RENE LOPEZ,
11 Plaintiff,

12 v.

13 UNKNOWN,
14 Defendants.

Case No. 08-5027 FDB/KLS

ORDER DENYING SECOND
MOTION FOR APPOINTMENT OF
COUNSEL

15 Before the Court is Plaintiff's second motion for appointment of counsel. (Dkt. # 12).
16 Plaintiff's first motion for counsel (Dkt. # 9) was denied on March 10, 2008. (Dkt. # 10). Having
17 reviewed the motion and balance of the record, the Court finds for the reasons stated below that
18 Plaintiff's motion should be denied.

19 **I. DISCUSSION**

20 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
21 Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding
22 *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*,
23 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);
24 *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires
25 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
26 articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789
27 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before

1 reaching a decision on request of counsel under Section 1915(d). *Id.*

2 Plaintiff has raised no new exceptional circumstances that were not addressed or considered
3 in his first motion. The difficulties claimed by Plaintiff are difficulties which any litigant would
4 have in proceeding pro se, they do not indicate exceptional factors. Accordingly, the Court
5 continues to find that counsel is not necessary in this case and Plaintiff's motion to appoint counsel
6 (Dkt. # 12) is **DENIED**.

7 The Clerk is directed to send copies of this Order to Plaintiff.

8 DATED this 27th day of March, 2008.

9
10
11 
12 Karen L. Strombom
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27